

SOUTHBOROUGH CONSERVATION COMMISSION
THURSDAY, OCTOBER 8, 2009
TOWN HOUSE MEETING ROOM, 2nd fl.
MEETING MINUTES

The Conservation Commission of the Town of Southborough held a meeting on Thursday, September 17, 2009 at 7:30 p.m. at the Southborough Town House, 2nd floor meeting room.

Members Present: John Leeds, Dick Upjohn, Mark Possemato, A.J. Purcell, Phil Bevins, Russ Gregory and Rhonda Russian.

Also Present: Ellen Chagnon, Conservation Scientist Consultant

The meeting commenced at 7:30 p.m. with Mr. Leeds as chairperson.

NOTICE OF INTENT – CUMBERLAND FARMS, 344 TURNPIKE ROAD, ASSESSORS MAP 25, LOT 1:

Mr. Leeds opened the public hearing at 7:30 p.m. for the application to redevelop the existing facility to eliminate the diesel dispenser and replace it with 2 fuel dispensers and piping, and to extend the fuel island and concrete barrier, within the buffer zone to bordering vegetated wetland. Present was Manny Paiva of the Cumberland Farms planning department, and Michael Perrault, engineer. Mr. Perrault stated the proposal will eliminate the diesel dispenser, expand the dispenser island, and move the barrier. Mr. Perrault said there will be no additional impervious area, improved site lighting, the sidewalk will be ADA compliant, the building will be remodeled, and the Stormceptor unit leaching basin will be raised for easier maintenance.

Mr. Possemato asked if the diesel tank is being removed. Mr. Paiva replied it is not, but it will be changed to regular gas and diesel will no longer be offered. Ms. Chagnon asked how much excavation will occur. Mr. Perrault replied about 6 feet of bituminous pavement will be excavated. Mr. Leeds inquired whether site plan review was required. Mr. Paiva responded it was, and he will be filing with the Planning Board after the Conservation Commission process is completed. Mr. Upjohn reminded the applicant that an alternate dumping site for the grass clippings must be found outside the wetlands as dumping was still occurring in spite of the Commission's requirement to stop. Both Mr. Paiva and Mr. Perrault said they would remind the property owner that grass dumping is not allowed in the wetlands. Ms. Chagnon asked for specifics about the water elevation within the leaching field due to concerns about proper operation, and asked Cumberland Farms to provide the numbers. Mr. Gregory asked about the operation of the Stormceptor overflow device. Mr. Perrault explained the system is sized for the first inch of rainfall and that is what picks up the majority of pollutants. Ms. Chagnon asked if it is an in-line or off-line system. Mr. Perrault replied the system is in-line and the Stormceptor is oversized given the watershed area.

Mr. Leeds continued the hearing to 10/29/09 to permit Commissioners to inspect the site.

REQUEST FOR DETERMINATION OF APPLICABILITY – SCOTT WEISS, 28 WILDWOOD DRIVE, ASSESSORS MAP 7, LOT 80:

Mr. Leeds opened the hearing at 7:50 p.m. The application was filed to determine if the proposed construction of a fence around the backyard is subject to the local wetlands bylaw. Present was property owner Scott Weiss, who gave an overview of the property and the details of the proposed fence construction on existing lawn. The Commission reminded Mr. Weiss about not dumping grass clippings at the rear of the property near the wetlands. The Commission asked whether any heavy

equipment would be used for the fence installation. Mr. Weiss replied it will be all hand dug. The Commission reminded Mr. Weiss that a portion of the fence is being proposed within the local 20' No Disturb Area and a waiver must be requested. Mr. Weiss asked the Commission to approve a waiver of the 20' No Disturb Area. Mr. Bevins said that per Ms. Chagnon's written comments, any materials removed from the fence post holes shall be disposed of outside the buffer zone. Mr. Leeds closed the hearing.

Upon motion by Mr. Upjohn, amended by Ms. Russian to include a waiver of the local bylaw 20' No Disturb Area, and seconded by Mr. Bevins, the Commission voted (7-0) to issue a Negative Determination with the above conditions.

CONTINUED ADMINISTRATIVE ENFORCEMENT HEARING – PAUL PIETRO, 12 SEARS ROAD, ASSESSORS MAP 63, LOT 12:

Mr. Leeds opened the hearing at 8:00 p.m. Present was property owner Paul Pietro and wetlands consultant Brian Waterman. Mr. Waterman described the plan revisions submitted for approval and presented Planting and Monitoring Notes for the Commission as requested. The Commission expressed their approval with the revised plans and narrative, and will continue to monitor the progress on the site. Mr. Pietro said he plans to start planting on Monday.

Mr. Leeds closed the hearing.

CONTINUED ADMINISTRATIVE ENFORCEMENT HEARING – CAPITAL GROUP PROPERTIES, 134 TURNPIKE ROAD, ASSESSORS MAP 29, LOT 47:

Mr. Leeds opened the hearing at 8:15 p.m. Present was property owner Bill Depietri of Capital Group Properties. Ms. Chagnon updated the Commission on her most recent site visit in which she found all items resolved. Mr. Gregory expressed concern about where snow will be dumped and asked that it not be plowed into the retention basins. Mr. Depietri agreed to install signs at the top parking lot above the detention basin that stated "No Snow Dumping". The Commission thanked him for agreeing to install the signage requested.

Upon motion by Mr. Upjohn, seconded by Mr. Purcell, the Commission voted (7-0) to lift the Enforcement Order and signed a Certificate of Compliance to remove the encumbrance on the property since the Enforcement Order had been recorded at the Registry of Deeds.

NOTICE OF VIOLATION – NU-YANKEE, LLC, 0 NORTHBORO ROAD, ASSESSORS MAP 70, LOT 2:

Mr. Leeds opened the Violation discussion at 8:20 p.m. Present was Mike Harrington, representative for the property owner, Nu-Yankee, LLC. Mr. Harrington admitted the company's mistake, and said that haybales have been installed along the 100' buffer zone. Mr. Upjohn said the haybales needed to be double-staked and turned so the strings do not touch the ground. The Commission informed Mr. Harrington that a Notice of Intent and a Stormwater Management Permit must be filed as soon as possible before any further work will be allowed on the site. Mr. Harrington agreed to have the applications submitted for the next meeting.

REQUEST FOR DETERMINATION OF APPLICABILITY – CSX TRANSPORTATION, INC., CSX RIGHT-OF-WAY (FITCBURG LINE AND BOSTON LINE):

Mr. Leeds opened the hearing at 8:55 p.m. Mr. Gregory recused himself as he owns property adjacent to the railroad tracks on Southville Road. Present for the hearing was Stephen Herzog, Project Manager for AMEC, representing CSX. Mr. Herzog explained that CSX is required by federal and state law to keep the tracks and signals safe and clear of vegetation, and herbicide is used to do that.

Mr. Herzog said a Vegetation Management Plan is required to be submitted every 5 years, and the present one expires this year. The Commission inquired as to the type of herbicide that is used. Mr. Herzog replied that it varies year to year, but they are all approved for use in sensitive areas. The Commission asked to see a list of the different herbicides that are used. Ms. Chagnon asked for verification on exactly what the RDA filing is seeking the Commission's determination on – is it a confirmation of resource area boundaries and not an approval of herbicides? Mr. Herzog explained how the herbicide application is done and how the maps are used. Ms. Chagnon said she found significant differences in the spray zone areas since the 2005 RDA filing. Mr. Herzog said the MassGIS data layers may have changed since then. Ms. Chagnon said the RDA is asking the Commission to confirm the wetland boundary yet no delineation has been done in the field that can be verified. Mr. Gregory, speaking as a member of the public, said he had seen evidence where spraying took place adjacent to a stream. The Commission expressed concern that spraying is going on in sensitive areas and asked Mr. Herzog to arrange a ride along the rails with Ms. Chagnon and a CSX wetland scientist to identify the resource areas and sensitive areas.

Mr. Leeds continued the hearing to 10/29/09.

OTHER BUSINESS:

1. **Meeting Minutes:**

- a. Minutes from the 8/6/09 meeting were reviewed. Upon motion by Mr. Upjohn, seconded by Ms. Russian, the Commission voted (6-0-1 with Mr. Possemato abstaining) to approve the minutes as amended.
- b. Minutes from the 8/27/09 meeting were reviewed. Upon motion by Mr. Upjohn, seconded by Mr. Purcell, the Commission voted (7-0) to approve the minutes as amended.
- c. Minutes from the 9/17/09 meeting were reviewed. Upon motion by Ms. Russian, seconded by Mr. Bevins, the Commission voted (6-0-1 with Mr. Upjohn abstaining) to approve the minutes as written.

2. **Boston Road/Genzyme Property Update:** David Pellegrini of Tetra Tech Rizzo presented an overview and showed plans of Genzyme's intention to construct a building mock-up on the former bus company site. Since a portion of the property is in the Town of Southborough and within the Riverfront Area, Genzyme is informally seeking the Commission's approval. The Commission gave their unanimous approval. In addition, Ms. Rosenblum and Ms. Chagnon updated the Commission on their meeting with a representative of the Framingham Department of Public Works and a sub-contractor doing work on the Framingham sewer expansion project. Despite their lack of notification to the Town of Southborough, the resource area is adequately protected and the soil stockpile is well covered. A letter from Stan Bigelow, Senior Project Manager for the Framingham Department of Public Works, was reviewed and accepted by the Commission.

3. **Request for Extension of Expired Order of Conditions (DEP File #290-803):** Nevio and Laurie Castelli submitted a written request asking the Commission to extend their Order of Conditions that had expired in April 2009 since they now had a buyer for the property. They appeared in person to explain the situation, and pointed out that the original Order of Conditions and plans had been issued against the wrong property due to an error on the part of their engineering firm. The Commission expressed concern on several issues: 1) the new property owner may wish to change the plans already approved and the Order should not be extended until the new owner is in place and their wishes for development of the site can be

considered; 2) due to the clerical errors recorded at the Registry of Deeds regarding the map and lot number and property address, the original Order is not valid for the property in question; 3) so as not to validate all prior errors, the Order needs to be voided and the encumbrance removed against 9 Burnett Road. The Commission agreed that a new Notice of Intent filing will be required in this case due to the unusual circumstances, expressed their understanding of the unfortunate situation being faced by the property owner as a result of his engineering firm's clerical errors, and due to the hardship presented by Mr. Castelli, unanimously agreed to waive the Southborough Wetlands Bylaw fee for the new application.

4. **Approve SMP Administrative Plan Revision for 78 Deerfoot Road:** The Commission reviewed the drainage plan revisions. Upon motion by Ms. Russian, seconded by Mr. Purcell, the Commission voted (7-0) to accept the revised drainage plan as part of the Stormwater Management Permit.

Upon motion by Mr. Bevins seconded by Ms. Russian, the Commission voted (7-0) to adjourn the meeting at 9:25 p.m.

Respectfully submitted,

Beth Rosenblum
Conservation Administrator